

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

WILLIE GONZALES, JR.,	§	
Petitioner,	§	
	§	
v.	§	C.A. NO. C-06-363
	§	
NATHANIEL QUARTERMAN,	§	
Respondent.	§	

**ORDER DECLINING TO ADOPT AMENDED MEMORANDUM AND
RECOMMENDATION AND ORDER DENYING MOTION TO DISMISS**

Petitioner Willie Gonzales, Jr. ("Petitioner") brought this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254.¹ (D.E. 1.) Respondent filed a motion to dismiss Quarterman as the respondent. (D.E. 13.) On February 2, 2007, United States Magistrate Judge Brian Owsley issued an Amended Memorandum and Recommendation in which he recommended that the motion to dismiss be granted. (D.E. 18).

Finding that the petition was unclear as to which of two convictions Petitioner was challenging (which, in turn, would determine the proper respondent), the Court ordered Petitioner to submit a statement clarifying whether he was challenging his Bee County Conviction or his Live Oak County conviction. (D.E. 19.) Petitioner filed a statement in response to the Court's order on February 23, 2007. (D.E. 22.) In it, he made clear that his petition challenges his current incarceration, which is the result of his Bee County conviction. (D.E. 22.)

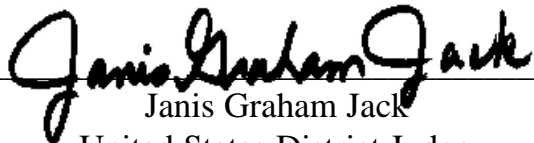
Both the Respondent's Motion to Dismiss and the Magistrate Judge's Amended Memorandum and Recommendation construed the petition as challenging Petitioner's Live Oak County conviction. Because it is now clear that the Bee County conviction is the challenged conviction, Quarterman is

¹ The background of the case is set forth more fully in the Amended Memorandum and Recommendation, entered February 2, 2007 and the Court's Order for petitioner to submit a clarifying statement, entered February 9, 2007. Familiarity with both of those orders is assumed.

the proper respondent. (See D.E. 18, Am. Mem. & Rec. at 4-5) (setting forth law as to who is the proper respondent in § 2254 cases).)

Accordingly, in light of Petitioner's supplement and clarification, the Court declines to adopt the Amended Memorandum and Recommendation (D.E. 18) and DENIES Respondent's Motion to Dismiss. (D.E. 13.)

It is so ORDERED this 6th day of March, 2007.


Janis Graham Jack
United States District Judge